

REMARKS/ARGUMENTS

Claims 1-12 and 14-20 were pending in this application. Claims 15 and 17 have been amended. No claims have been added or canceled. Hence, claims 1-12 and 14-20 remain pending. Support for the amendments may be found, *e.g.*, in the specification at page 9, ll. 4-5, Fig. 2, *etc.* As such, no new matter enters by way of the present amendment. Entry of the amendment and reconsideration of the subject application as amended is respectfully requested.

Objection to the Drawings

Regarding the objection to the drawings of paragraph (a), it is noted that Fig. 2 depicts an embodiment wherein the lump breaker is arranged along the second axis, *i.e.*, the lump breaker is located in line with the second axis (rather than in an inclined orientation as indicated in the Office Action). Such embodiments are discussed in the specification, *e.g.*, at page 8-9. To clarify, claim 15 has been amended to recite that the axis of the lump breaker and the second axis are secant, *i.e.*, intersect. This arrangement is clearly illustrated in Fig. 2. As such, withdrawal of this objection is respectfully requested.

Objection to the Claims

Claim 17 has been objected to due to an alleged informality. In order to facilitate prosecution, the claim has been amended as suggested. However, such amendment does not narrow the scope of the claim.

Allowable Subject Matter

The Examiner is thanked for the indication that claims 14-18 and 20 would be allowable if rewritten in independent format. However, Applicants believe that the independent claims, as presented herein and discussed below, are patentable over the cited art. As such, Applicants have not amended the claims at this stage of prosecution.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-5, 7-12 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the cited portions of U.S. Patent No. 5,649,765 to Stokes, *et al.* (hereinafter "Stokes"). This rejection is respectfully traversed for at least the reasons which follow.

The present independent claims relate to a mixer including a casing substantially having symmetry of revolution about a first axis, mixing members driven in rotation relative to the casing and about a second axis that is inclined relative to the first axis, and a lump breaker which is mobile relative to the first axis of the mixer, the lump breaker and the mixing members of the mixer being on either side of a plane containing the first axis.

It is well established that to anticipate a claim, a reference must disclose every element of the claim. *Verdegaal Bros. v. Union Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

Stokes discloses a conical mixer 10 comprising a mixing screw 26 which is operably coupled to an orbit arm 40 (col. 5, ll. 49-50). The orbit arm 40 is orbited around a substantially vertical axis, *i.e.*, a first axis, according to arrow 42 (col. 5, ll. 51-53, Fig. 1). However, as can be seen from Fig. 1, the orbit arm does not have a symmetry of revolution about the first axis, as required by the present claims.

The conical mixer of Stokes also comprises a lump breaker (without reference numeral) including a motor 30 and blade 32. The lump breaker is provided proximate to the lower portion of the mixer. (col. 5, ll. 30-32). However, as can be seen in Fig. 1, the motor 330 of the lump breaker is fixed to the body 12 of the conical mixer. Thus, the motor 30 cannot move relative to the first axis. The blade can also not move relative to the first axis. Indeed, contrary to the assertions in the Office Action, no means is provided in Stokes to move the lump breaker relative to the first axis, as required by the present invention.

In addition, as the lump breaker of Stokes cannot move relative to the first axis, when the orbit arm is orbited around the first axis according to arrow 42, at one moment the mixing members, the first axis and the lump breaker are aligned, the mixing member being

between the first axis and the lump breaker. Thus, the lump breaker and the mixing member are not on either side of a plane containing the first axis, as required by the present claims.

For at least these reasons, it is submitted that Stokes does not teach each and every limitation of the present claims. As such, withdrawal of this rejection is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Stokes, in view of the cited portions of U.S. Patent No. 4,437,766 to Joachim, *et al.* (hereinafter “Joachim”). This rejection is respectfully traversed for at least the reasons which follow.

The Office Action acknowledges that Stokes does not disclose the variable orientation of the mixing members. However, in support of the rejection, the Office Action cites to Joachim and alleges that it would have been obvious to have modified the mixing members of Stokes to include “the mixing members having variable orientation as thought by Joachim for the purpose of conveying materials in the mixer at variable rates and to compress the materials.” Applicants respectfully traverse.

Nonetheless, even assuming, *arguendo*, such a combination, whatever else Joachim does teach, it does nothing to remedy the deficiencies of Stokes as discussed above. There is no suggestion in cited references or the general knowledge in the art to modify the teachings of Stokes so as to arrive at the present invention, *e.g.*, with regard to the orientation of the orbit arm, the lump breaker, and the mixing member, as discussed above. As such, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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Reply to Office Action of June 16, 2006

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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